

**FY 2018 PRESS CONFERENCE & HEARINGS
DENIAL OF WATER QUALITY STANDARDS RULEMAKING PETITIONS**

ISSUE/TOPIC: Florida and Washington WQS rulemaking petitions.

BACKGROUND:

- Under the Administrative Procedure Act (APA), federal agencies must give interested persons the right to petition for the issuance, amendment, or repeal of a rule. 5 U.S.C. § 553(e).
- In 2017, EPA received two lawsuits alleging that the Agency unreasonably delayed responding to petitions filed under the APA. The petitions are asking EPA to establish new and revised water quality standards via federal rulemaking in Florida and Washington.

TALKING POINTS:

Florida Human Health Criteria:

- June 2009, Florida Clean Water Network (FLCWN) petition requested EPA to conduct rulemaking to propose and promulgate new or revised human health water quality criteria for toxic pollutants, based on an appropriate fish consumption rate.
- July 2016, the Florida Environmental Regulation Commission approved revised WQS adopted by the state that have been challenged legally by multiple parties.
- Florida Department of Environmental Protection is expected to submit revised WQS based on the outcome of those legal challenges. (April 2017)
- *(DRAFT bullet to be included if/once denial is signed)* May 2017, EPA decided that the use of federal rulemaking authority is not the most effective or practical means of addressing these concerns at this time and denied this petition.

Washington Water Quality Criteria for Toxics:

- October 2013, Northwest Environmental Advocates petition requested EPA to conduct rulemaking to promulgate new and revised human health and aquatic life criteria for toxics.
- November 2016, EPA approved 45 of WA's human health criteria and revised 144 additional human health criteria.
- The combination of the EPA's action on Washington's submittal, and the EPA's federal rule applicable to Washington, ensures that Washington has numeric human health criteria for all priority pollutants.
- WA Department of Ecology has not updated the majority of aquatic life criteria since 1992. WA DOE's Strategic Plan for 2015-2020 includes commitments to update these criteria.
- Due to the WA DOE's extensive effort to update its human health criteria, WA has not yet adopted new and revised aquatic life criteria.
- *(DRAFT bullet to be included if/once denial is signed)*

Ex. 5 - Deliberative Process

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